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*Debtors and Debtors-in-Possession*

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: :  
: Chapter 11  
:   
ERBO PROPERTIES LLC, et al.<sup>1</sup> : Case No.: 23-10210 (LGB)  
: (Jointly Administered)  
Debtors. :  
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**DECLARATION OF HERSHEL KLEIN IN SUPPORT OF THE DEBTOR'S  
MOTION TO REJECT A DEVELOPMENT MANAGEMENT AGREEMENT WITH  
HIGHER GROUND 541 LLC AND A CONSTRUCTION MANAGEMENT AGREEMENT  
WITH CAULDWELL WINGATE COMPANY LLC**

I, Hershel Klein, declare, pursuant to section 1746 of title 28 of the United States Code,  
that:

1. I am over the age of eighteen and reside in New York.
2. I am the vice president of Erbo Properties LLC ("Erbo" or the "Debtor"). I am the son-in-law of Erno Bodek, Erbo's ultimate majority owner. Erbo filed a voluntary Chapter 11 petition with the Clerk of this Court on February 13, 2023 (the "Petition Date").
3. Based upon my extensive involvement shortly prior to the Petition Date and subsequent to the Petition Date, I am familiar with the Debtor's construction project and building at 541 West 21<sup>st</sup> Street, New York, NY as well as the Debtor's financial affairs in general. I am

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<sup>1</sup> The Debtors are ERBO Properties LLC (EIN x9179), Case No.: 23-10210, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; KOVA 521, LLC (EIN x9972), Case No.: 23-10211, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211; and Gold Mezz LLC (EIN x4741), Case No.: 23-10212, with a mailing address at 551 Bedford Avenue, Brooklyn, NY 11211.

duly authorized to make this declaration (the “Declaration”) on behalf of the Debtor, and I am competent to testify, to the extent necessary.

4. I respectfully submit this Declaration in support of the Debtor’s motion pursuant to section 365 title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), for entry of an order authorizing the Debtor to reject the DMA with Higher Ground and the CMA with Cauldwell (the “Rejection Motion”).

5. I have reviewed the Rejection Motion and adopt as my testimony the various statements and facts set forth in the Rejection Motion. In addition, I have reviewed the Debtor’s motion to enter into agreements with Irving Oak Management (“Irving”) and Mabe Group Inc. (“Mabe”) filed under ECF Dkt. No. 57 and adopt as my testimony the various statements and facts set forth therein.

6. As it relates to the Rejection Motion, in addition to the facts and statements set forth in the Rejection Motion and the Reply [see ECF Dkt. No. 64], which I adopt as my testimony, I believe, in consultation with the Debtor’s equity owners and my numerous discussions with Irving’s owner Eliezer Fried, the Debtor’s entry into agreements with Irving and Mabe, and the rejection of the DMA and the CMA, is a reasonable exercise of the Debtor’s business judgment.

7. I can further attest that I was intimately involved in the review of Irving’s proposal and estimate to complete the Project. I can further attest that I have complete confidence in Irving’s and Mabe’s experience and am confident with their assistance Debtor will be able to obtain the TCO for the Project in a reasonably short period of time.

8. I will arrange for the deposit of the sum of \$400,000 into the Debtor’s counsel’s trust account prior to May 4, 2023. Assuming this Court grants the Rejection Motion and authorizes the Debtor to retain Irving and Mabe without interference, these monies will be contributed, as needed, as capital contributions to pay the costs necessary to obtain the TCO.

9. Accordingly, I believe approval of the Rejection Motion is in the best interest of the Debtor, its estate and its creditors, including G-4 and 541 W 21 SME LLC, and therefore, the Debtor respectfully requests approval of the Rejection Motion.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1st day of May 2023

/s/ Hershel Klein  
Hershel Klein